

HOUSE BILL NO. 403

1/23 Introduced
1/23 Referred to Highways & Transportation
1/24 Fiscal Note Requested
1/29 Fiscal Note Received
Died in Committee

1 HOUSE BILL NO. 403
2 INTRODUCED BY HARP *Harp*
3 BY REQUEST OF THE DEPARTMENT OF HIGHWAYS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A FEE IN
6 LIEU OF SPECIAL FUELS TAX FOR VEHICLES 10,000 POUNDS OR LESS
7 GROSS WEIGHT POWERED BY SPECIAL FUEL AND VEHICLES USING
8 ALTERNATE FUEL; DEFINING ALTERNATE FUEL; SETTING THE FEE;
9 PROVIDING FOR THE DEPOSIT OF THE FEE; PROVIDING A PENALTY;
10 PROVIDING EXEMPTIONS FROM THE FEE; PROVIDING ALTERNATE FUEL
11 TRIP PERMITS; AMENDING SECTIONS 15-70-302 AND 15-70-322,
12 MCA; REPEALING SECTIONS 15-71-101 THROUGH 15-71-105, MCA;
13 AND PROVIDING EFFECTIVE DATES."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Definitions. As used in
17 [sections 1 through 7], the following definitions apply:

18 (1) "Alternate fuel" means liquefied petroleum gas,
19 compressed natural gas, hydrogen, and electricity when
20 actually sold for use or used in motor vehicles propelled
21 upon the public roads and highways or streets within the
22 state of Montana.

23 (2) "Special fuel" means special fuel as defined by
24 15-70-301.

25 NEW SECTION. Section 2. Fee in lieu of tax for

1 special and alternate fuel -- decals. (1) The owner or
2 operator of motor vehicles of 10,000 pounds or less gross
3 weight powered by special fuel and the owner or operator of
4 any motor vehicle powered by alternate fuel shall before
5 January 31 of each year pay a fee in lieu of special fuel or
6 alternate fuel tax. In evidence of the payment, the county
7 treasurer shall issue a distinctive decal provided by the
8 department of revenue. This decal must be displayed on the
9 windshield of the motor vehicle, and the decal, while valid,
10 authorizes any special fuel or alternative fuel dealer to
11 deliver into the supply tank of the motor vehicle any
12 special fuel, free of the tax imposed under 15-70-321.

13 (2) The owner or operator of a vehicle subject to the
14 provisions of subsection (1) that is registered for the
15 first time in this state shall pay the fee in lieu of
16 special fuel or alternate fuel tax at the time of first
17 registration.

18 (3) The owner or operator of a vehicle converted to
19 either special fuel or alternate fuel shall within 10 days
20 after such conversion pay the fee in lieu of special fuel or
21 alternate fuel tax.

22 (4) The county treasurer shall collect 50% of the fees
23 specified in [section 3] if the decal is issued after July
24 1.

25 NEW SECTION. Section 3. Fees. (1) The county



1 treasurer shall, under rules issued by the department of
 2 revenue, collect or cause to be collected from the owners or
 3 operators of motor vehicles of 10,000 pounds or less gross
 4 weight powered by special fuel and from the owners or
 5 operators of all vehicles powered by alternate fuel an
 6 annual fee according to the following schedule:

7 (a) passenger cars and pickups whose licensed gross
 8 vehicle weight is 10,000 pounds or less, \$80;

9 (b) motortrucks and truck tractors whose licensed
 10 gross vehicle weight is over 10,000 pounds and less than
 11 18,000 pounds, \$110;

12 (c) motortrucks and truck tractors whose licensed
 13 gross vehicle weight is 18,000 pounds or more but less than
 14 48,000 pounds, \$270;

15 (d) motortrucks and truck tractors whose licensed
 16 gross vehicle weight is 48,000 pounds or more, \$1,330.

17 (2) The county treasurer shall, no later than the 15th
 18 day of each month, after retaining 5% for the county general
 19 fund, remit the remainder of the collections received under
 20 this section to the state treasurer for deposit to the
 21 credit of the department of highways in the state special
 22 revenue fund.

23 NEW SECTION. Section 4. Exemptions. The United
 24 States, the state of Montana, all other states, and the
 25 counties, incorporated cities and towns, and school

1 districts of this state are exempt from payment of the fee
 2 in lieu of special fuel or alternate fuel tax.

3 NEW SECTION. Section 5. Temporary alternate fuel
 4 permit. (1) Upon entering the state, a nonresident operating
 5 any motor vehicle over 10,000 pounds gross weight powered by
 6 alternate fuel is required to purchase an alternate fuel
 7 temporary trip permit. The permit may be issued by scale
 8 house personnel, gross vehicle weight patrol crews, Montana
 9 highway patrolmen, and such other enforcing agents as the
 10 department of revenue may prescribe.

11 (2) The charge for a temporary alternate fuel permit
 12 is \$30. The permit is valid for a period of time not to
 13 exceed 72 hours and is automatically void if the vehicle
 14 leaves the state during this period. Special alternate fuel
 15 permits, remittance forms, and any other papers necessary
 16 for the enforcement of [sections 1 through 7] must be
 17 furnished by the department of highways.

18 NEW SECTION. Section 6. Penalties. Any person is
 19 guilty of a misdemeanor and subject to a penalty as provided
 20 in 15-70-336 who:

21 (1) fails to obtain a decal for a motor vehicle as
 22 required by [section 2]; or

23 (2) delivers or receives any special fuel or alternate
 24 fuel into the supply tank of a motor vehicle for which a fee
 25 in lieu of special fuel or alternate fuel tax is required

1 and has not been paid and for which a decal has not been
2 issued and affixed to the windshield.

3 NEW SECTION. Section 7. Rulemaking. The department of
4 revenue may adopt rules to implement the provisions of [this
5 act].

6 Section 8. Section 15-70-302, MCA, is amended to read:

7 "15-70-302. Special fuel dealer's licenses and special
8 fuel user's permits required -- exceptions. (1) It shall be
9 unlawful for any person to act as a special fuel dealer in
10 this state unless such person is the holder of an uncanceled
11 fuel dealer's license issued to him by the department.

12 (2) Every special fuel user shall obtain annually from
13 the department, prior to the use of such special fuel for
14 the propulsion of a motor vehicle or vehicles of more than
15 10,000 pounds gross weight in this state, a special fuel
16 user's permit and shall at all times display the original or
17 a reproduced copy of the permit in each such vehicle or
18 vehicles operated by him upon the highways as herein defined
19 which shall be exhibited for inspection on request of any
20 checking station officer, Montana highway patrol officer,
21 authorized employee of the department, or any other law
22 enforcement officer. The special fuel user shall be
23 responsible for reproducing clear and legible copies of the
24 permit.

25 (3) A special fuel user's permit is not required of

1 any person whose sole use of special fuel is for the
2 propulsion of a privately--operated--passenger--automobile
3 motor vehicle of 10,000 pounds or less gross weight
4 registered under the laws of another state, provided the
5 person purchases special fuel, tax paid, from a licensed
6 special fuel dealer in this state. For purposes of this
7 exemption, a privately operated passenger vehicle does not
8 include a motor vehicle used for the transportation of
9 persons for hire or for compensation or designed, used, or
10 maintained primarily for transportation of property.

11 (4) Any out-of-state user who operates a special fuel
12 vehicle solely for recreation or for religious, charitable,
13 educational, or other eleemosynary purposes shall secure a
14 special fuel user's courtesy vehicle permit. The permit
15 shall not be transferable and shall be valid for 90 days.
16 Permits will be issued at no cost to the user by the
17 department, scale house personnel, and gross vehicle weight
18 patrol crews. The department may require the user who has
19 fuel capacity in excess of 30 gallons to file a report and
20 pay the tax on fuel used in Montana on which the tax has not
21 been paid."

22 Section 9. Section 15-70-322, MCA, is amended to read:

23 "15-70-322. Tax on use of special fuels. (1) There is
24 hereby levied and imposed a tax on the use of each and every
25 gallon of special fuel in any motor vehicle while operated

1 upon the highways equivalent to the lawful tax levied on
 2 motor fuel under 15-70-321. Said tax, with respect to all
 3 special fuel delivered by a special fuel dealer into supply
 4 tanks of motor vehicles in this state, shall attach at the
 5 time of such delivery and shall be collected by such special
 6 fuel dealer from the special fuel user and shall be paid
 7 over to the department as hereinafter provided. Said tax,
 8 with respect to special fuel acquired by any special fuel
 9 user in any manner other than by delivery by a special fuel
 10 dealer into a fuel supply tank of a motor vehicle, shall
 11 attach at the time of the consumption of such fuel in the
 12 propulsion of a motor vehicle upon the highways of the state
 13 and shall be paid over to the department by the special fuel
 14 user as hereinafter provided. The United States, Montana and
 15 all other states, and the counties, incorporated cities and
 16 towns, and school districts of this state are exempt from
 17 the levy and imposition of this tax.

18 (2) Special fuel delivered into the supply tank of a
 19 motor vehicle bearing a valid fee in lieu of special fuels
 20 tax decal is exempt from taxation under this part."

21 NEW SECTION. Section 10. Repealer. Sections 15-71-101
 22 through 15-71-105, MCA, are repealed.

23 NEW SECTION. Section 11. Authority to proceed with
 24 rulemaking. The department of revenue may initiate
 25 rulemaking proceedings under section 7 on or after passage

1 and approval of this act, but no rules under section 7 may
 2 be made effective prior to January 1, 1986.

3 NEW SECTION. Section 12. Effective dates. (1) Except
 4 as provided in subsection (2), this act is effective January
 5 1, 1986.

6 (2) Sections 7, 11, and this subsection (2) are
 7 effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. FNN 199-85

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 85, there is hereby submitted a Fiscal Note for H.B. 403 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 403 provides for a fee in lieu of Special Fuels Tax for vehicles 10,000 pounds or less gross weight powered by Special Fuel and vehicles using Alternate Fuel.

ASSUMPTIONS:

1. The number of L. P. G. permits issued in FY 86 and FY 87 will continue at the same level as FY 84.

FISCAL IMPACT:

Net Revenue to Highway Earmarked Special Revenue Fund

	<u>FY 86</u>	<u>FY 87</u>
Under Current Law	\$ 176,110	\$ 176,110
Under Proposed Law	<u>227,026</u>	<u>227,026</u>
Estimated Increase	\$ 50,916	\$ 50,916

LOCAL IMPACT:

5% of the total collections would be retained by the counties.

	<u>FY 86</u>	<u>FY 87</u>
Revenue to County General Fund		
Under Current Law	\$ -0-	\$ -0-
Under Proposed Law	<u>11,949</u>	<u>11,949</u>
Estimated Increase	\$ 11,949	\$ 11,949

LONG-RANGE IMPACT:

None anticipated

TECHNICAL NOTES:

None

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 29, 1985